THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.12679 OF 2007

Dated 19-06-2007

Between:

M/s R. Subba Raju

…Petitioner

And

Government of Andhra Pradesh
Rep. by its Prl. Secretary, Irrigation & CAD Department
and others

…Respondents

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W.P.No.12679 OF 2007

ORDER:

The petitioner is a partnership firm, registered as Special Class Contractors. It was awarded the work of formation of Earth Dam, from Ch. 96.25 M to 500 M of Peddagedda Reservoir, near Kesali Village of Pachipenta Mandal, Vizianagaram District, through agreement dated 21-04-2004. It asserts that the work, entrusted to it, has been executed, according to the specifications. Controversy had arisen, as regards the liability of the petitioner to pay the seigniorage fee, at enhanced rate, for the quantity of earth used in the work. On earlier occasion, the petitioner approached this Court by filing W.P.No.2981 of 2007. After hearing both the parties, this Court permitted the petitioner to approach the Government by way of a representation. It is stated that the representation has since been submitted, and the same is pending. The grievance of the petitioner is that, under the pretext of pendency of the dispute,

in relation to the rate of seigniorage fee, the respondents are not releasing the final bill amount.

Sri N. Siva Reddy, learned counsel for the petitioner, submits that the amount, representing the difference of seigniorage fee,

is relatively small, when compared to the final bill, payable to the petitioner, and there is no justification for the respondents in withholding the entire bill.

Learned Government Pleader for Irrigation, on instructions, submits that the final bill can be released, when the work executed by the petitioner is found satisfactory, in all respects, and the petitioner cannot insist on payment thereof, without such verification.

The grievance of the petitioner is only as regards the payment of the final bill. By its very nature, the final bill becomes payable, only after the work executed by the contractor is found to be satisfactory, in all respects. It is no doubt true that the controversy as regards the rate, at which the seigniorage fee is to be deducted from the bills of the petitioner, is pending consideration by the Government. On that basis, the entire bill, if it is otherwise payable; cannot be withheld. At the most, the respondents can withheld the amount, representing the seigniorage fee, which is payable, according to their calculations. Further adjustments can be made after the representation of the petitioner is considered by the Government.

Hence, the writ petition is disposed of, directing the respondents to release the final bill, payable to the petitioner, if it is otherwise due, without any reference to the pendency of the representation of the petitioner, as regards the determination of the rate of seigniorage fee. It is made clear that the respondents shall be entitled to withhold the amount, payable towards the seigniorage fee, according to the calculations made by them, which in turn, shall be subject to the orders, that may be passed by the Government, on the representation made by the petitioner.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.19-06-2007.

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